THE UNITED STATES AND CANADA IN THEIR HUNDRED YEARS OF PEACE

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The proposition to have a celebration of the Hundred Years of Peace, 1814–1914, recalls the relations between the United States and Canada since the signing of the Treaty of Ghent. The question naturally arises, Have their relations been pleasant? Are they in any way unique? Is there anything about them to celebrate?

That the relations of these countries are unique is attested by the fact that to a large extent their people are descended from the same ancestry, speak the same language, enjoy the same inheritance of the English common law, and have developed side by side a successful democracy. Quebec may have her French Roman law—so has Louisiana; neither affects the common law of other jurisdictions. French is one of the official languages of the Dominion of Canada, and here may be an exception that we cannot parallel, but the French Canadian is an integral part of Canadian life, and Sir Wilfrid Laurier has declared in the same loyal spirit as Sir John A. Macdonald, that he is a British subject. We have in the United States nearly a million and a half loyal French Canadians, many of whom can say, "I am an American citizen." And so, although the parallel may not be exact, a resemblance exists. More than that, it is impossible oftentimes to distinguish a British Canadian from an American by his dress or his accent. All these facts indicate the oneness of the two peoples.

It does not necessarily follow, however, that, because these peoples are closely related, they are exempt from disagreement. The very closeness of their relation and their geographical nearness to each other have often caused controversies that would never have occurred had they lived farther apart; but, whenever there has been irritation, it has, except in one instance, ended in a friendly understanding. All the more reason, then, is there for a day of rejoicing over the long peace that, in spite of international complications, has prevailed.

A lesson, at once most timely and encouraging in this age when nations that are outwardly friendly are armed to the teeth, can be learned from the experience of the United States and Canada. It will show that, in one instance of very great importance, an agreement for the limitation, reduction, and disuse of armaments has been a practical success. By an exchange of notes that took place in 1817 between Great Britain and the United States, with the approval of the United States Senate, Sir Charles Bagot, minister representing the mother country, and Richard Rush, acting for the American Department of State, an agreement[1] for the limitation of naval armaments was made to the effect that each nation should maintain not more than one warship apiece on Lake Ontario and Lake Champlain, or more than two each on the Great Lakes, none of which ships should exceed one hundred tons in burden, or be armed with larger than an eighteen-pounder cannon. It was understood by the contracting parties that this agreement might be terminated on six months' notice from either power to the other. The agreement has been subjected to considerable strain at times, but in spirit it has never been broken. That it could ever have been literally kept was impossible, except at the start, because of the low standard of tonnage and armament in the early days of the nineteenth century, as compared with the enormous tonnage and armaments of to-day. Mr. Root once referred to this singular compact as having become "an antiquated example of naval literature." There was a period about 1838, during the Canadian rebellion, when the British government exceeded the limit agreed upon and justified its position to the United States on the ground of public danger; and there were one or two occasions when the United States was called to account by the British minister for exceeding the limit as to the size of ships, but these technical departures from the stipulations have never been deemed serious. There was, however, an attempt made by the United States to have the arrangement terminated towards the close of the civil war, when the Federal government was compelled to take measures for the defense of its territory from Confederate invasions made, or expected to be made, from Canada. But the end of the war came before the six months required for notice actually expired, and the United States decided to let the contract remain in force.

[1] For a history of the naval agreement, see I Moore's *International Law Digest*, section 143. Consent of the Senate given April 16, 1818; proclaimed April 28, 1818.

But the point that the experience illustrates, and the same thing is practically true of the land as well as the lakes boundary, is that on a border line of more than three thousand miles—the longest in the world—there is no appreciable menace by either nation from forts or warships, and the expense for their maintenance, when compared with that of the armaments of European countries in like situations, is hardly worth consideration. The Canadian border line has aptly been called the safest border line in the world.

Most of the questions that have arisen between the United States and Great Britain in relation to Canada have been questions of boundary or of fishing rights. Nearly all questions relating to boundaries have arisen in consequence of obscure passages in or mistakes in maps used by the makers of the Treaty of 1783. Fisheries questions have turned chiefly upon the interpretation of the convention of 1818. All disputes have been settled by arbitration or diplomacy. Although sometimes the decisions rendered and the settlements made have been unsatisfactory to the losing party, the conduct of the two peoples has been highly honorable and left no sting of international resentment that abides to this day; and, to prepare for the future, these countries have now entered upon an arrangement that is quite as unique as the "Truce of Armaments." They have constituted an international boundaries commission that is capable of dealing with every question that may come up, arising from interests pertaining either to the frontier or elsewhere.

The first question of importance between Canada and the United States is related to the northeastern boundary. A commission was provided for in the Jay Treaty to determine what river was meant by the St. Croix in the Treaty of 1783. This commission, composed of two arbitrators, each of whom was a citizen of the contending countries, and an umpire, also a national of one of them, chosen by the two commissioners, fixed upon the Schoodic, or Schoodiac, River, according to the American claim, instead of the Magaguadavic as contended for by Great Britain. This settlement, the story of which is appreciatively told in the first volume of John Bassett Moore's "International Arbitrations,"[2] was made by men of the highest personal

[2] For the history of international arbitrations between the United States and other countries, see generally Professor John Bassett Moore's *International Arbitrations*, 6 volumes, with maps. The first volume relates especially to arbitrations between Great Britain and the United States, including those in which Canada has been interested. There is no other work of equal authority on the subject. The writer combines with historical accuracy a respect for international justice

character and legal fitness, who, though their sympathies had been with one side or the other in the revolutionary struggle, were rejoiced that they could perform their duties to this controversy as brothers rather than as enemies. James Sullivan, of Massachusetts, agent of the United States, in concluding his report on this arbitration in 1797, wrote: "Why shall not all the nations on earth determine their disputes in this mode rather than choke the rivers with their carcasses, and stain the soil of continents with their slain? The whole business has been proceeded upon with great ease, candor, and good humor."[3]

When the war of 1812 had demonstrated to Great Britain the necessity of a clear title to the route from Halifax to Quebec overland, south of the St. Lawrence, an effort was made to secure it as of right under the Treaty of 1783; but the peace commissioners of the United States, to whom the matter was referred at the time of the negotiation of the Treaty of Ghent, resisted the British claim. An agreement was then made, however, that a special commission should be appointed by the British and American governments to survey and determine the line. If the commissioners failed to agree, the question was to be submitted to a friendly arbitrator. The commissioners disagreed and the King of the Netherlands was requested to arbitrate. Failing to find an unmistakable line according to the maps and information laid before him, he recommended a compromise boundary, which was calculated to suit the convenience of both parties but to cause serious loss to neither. This award, or recommendation, being in excess of the arbitrator's powers, was not accepted, and after considerable correspondence the dispute was settled by Daniel Webster and Lord Ashburton, who, in 1842, met at Washington and agreed upon a conventional line. This line gave to the United States about seven-twelfths of the twelve thousand square miles of land in dispute, and to Great Britain for Canada five-twelfths, which was more than the arbitrator had allowed to her. The treaty further confirmed to the United States its claim to Rouse's Point, which was found to be a little north of parallel 45°, the accepted line between

and a high regard for the public services of the men of all nations who have helped to adjust the differences described.

See also an address by Justice William R. Riddell, on "Arbitration Treaties affecting the United States and Canada," in the report of the Lake Mohonk Conference on International Arbitration, 1912, page 75. See the same writer, in *Judicial Settlement of International Disputes*, p. 14, in which report he is equally happy in his account of the relations between the two countries.

To both Professor Moore and Justice Riddell I am indebted for my summary of facts.

[3] Moore's *International Arbitrations*, I, 17.

the two countries at that point, and granted the right to citizens of the United States to use the St. John River in the British dominions for floating down lumber and other produce, on the same terms as allowed to citizens of Canada. The general government of the United States compensated the states of Maine and Massachusetts, proprietary owners of the land in controversy, for their losses, by payments of $150,000 each, and gave to Maine, in addition, a considerable sum to reimburse her for expenses incurred in defending her claims to the territory, the jurisdiction over which she had exercised.

The Webster-Ashburton treaty had been preceded by great public excitement on both sides of the line. The State of Maine had appropriated $800,000 for military purposes, and the United States government $10,000,000 in the form of extra credit to support the assertion of the American claims. Arrests and counter-arrests had been made by the governments of Maine and New Brunswick. Maine had a civil posse on the scene and had equipped regiments for war. Forts were built and military roads constructed to anticipate hostilities. In fact, the controversy was called "the Aroostook war;" but this was a misnomer—there was no war. General Scott was sent to the border to effect an armistice between Maine and New Brunswick. The situation was further complicated by the affair of the Caroline, the destruction of an American vessel on the Niagara River, and the accidental killing of an American citizen by a British-Canadian force. This force, the public character of which Great Britain afterwards acknowledged, thus succeeded in preventing supplies from reaching some revolutionists on Navy Island; but, to placate outraged national feeling, the destruction of the Caroline was made the subject of an apology in a letter from Lord Ashburton to Mr. Webster. Other events, like the case of the Creole, afterwards (1853) adjusted by arbitration, also endangered the situation, but the diplomacy of the two distinguished commissioners was equal to the emergency.

At a critical stage in the negotiations relating to the boundary line, Lord Ashburton and Mr. Webster ceased to keep written protocols of their work, and informally reached their conclusions. Both were afterwards severely criticised for making concessions, and in England the settlement was contemptuously spoken of as "the Ashburton capitulation" by political opponents like Lord Palmerston. Webster justified himself in an able speech on the Treaty of Wash-

ington. But no statesmen of Great Britain and America were ever more patriotic, or ever had the larger interests of their two peoples more at heart than these great men. After his appointment as commissioner, Lord Ashburton, in a private letter to Mr. Webster, wrote: "The principal aim and object of that part of my life devoted to public objects during the thirty-five years that I have had a seat in one or the other House of Parliament, has been to impress on others the necessity of, and to promote myself, peace and harmony between our countries; and although the prevailing good sense of both prevented my entertaining any serious apprehensions on the subject, I am one of those who have always watched with anxiety at all times any threatening circumstances, any clouds which, however small, may, through the neglect of some or the malevolence of others, end in a storm the disastrous consequences of which defy exaggeration."[4]

The peace that has prevailed between Great Britain and America is to a large degree due to the fact that we have had men like Webster and Ashburton to meet every warlike situation.

The fixing of the national ownership of islands in Passamaquoddy Bay was the work of a commission in 1817, authorized by the Treaty of Ghent. But afterwards it was found that the title to a few small islands was not settled and the boundary line in Passamaquoddy Bay was finally determined by a treaty signed May 21, 1910; ratifications exchanged August 20, 1910. Doubts as to the boundaries of the United States and Canada in the St. Lawrence, Lakes Ontario, Erie and Huron, were peacefully solved by two commissioners in 1822. Under the Treaty of 1854, a dispute as to places reserved respectively to Americans and Canadians for their fisheries in that treaty was adjusted by a commission with the aid of an umpire.

In 1846 another question of almost equal importance with that of the northeastern boundary arose in the Northwest; where, however, at that time the national life of Canada was undeveloped and Great Britain, as the mother country, was the chief British party concerned. By the assertion of long cherished rights, both the United States and Great Britain laid claim to land near the Columbia River. To prevent a clash of arms, the debatable land was by treaty occupied in common, without prejudice to claims of either

[4] Van Tyne's *Letters of Daniel Webster*, p. 253.

country, from 1818 for ten years. Attempts to settle the question in 1824 failed, and in 1827 the joint occupation was indefinitely renewed. The excitement of the political campaign of 1844 in America is remembered by the cry, "Fifty-four forty or fight!" which helped to secure the presidential office for Mr. Polk. England at that time claimed down to the mouth of the Columbia River, between 46° and 47°. This question was settled shortly afterward by an agreement made by James Buchanan, Secretary of State, and Mr. Pakenham, the British minister, who compromised on the line of 49° and kept the peace. A question of comparatively no importance from the point of view of international excitement was settled in 1869, when a commission adjusted claims of the Hudson's Bay Company and the Puget's Sound Agricultural Company.

In practically all the negotiations between the United States and Great Britain affecting Canada up to 1871, Canada was represented solely by Great Britain; but in the making of the Treaty of Washington, signed May eighth of that year, she was specially represented by Sir John A. Macdonald,[5] her distinguished premier. After the rejection by the United States of the Johnson-Clarendon Convention, which had made provision for the settlement of claims between the two countries, but met with almost unanimous opposition in the American Senate, the two governments were brought together by the instrumentality of Sir John Rose,[6] a member of the Canadian ministry. Sir John Rose, as British commissioner in the settlement of the Hudson's Bay and Puget's Sound Agricultural companies' claims, made the acquaintance of some of the leading men in, and connected with, the American Department of State; and "as one-half American, one-half English, enjoying the confi-

[5] The signers of the treaty were, on the part of the United States, Hamilton Fish, Robert C. Schenck, Samuel Nelson, Ebenezer Rockwood Hoar, and George H. Williams; on the part of Great Britain, the Earl de Grey and Ripon, Sir Stafford H. Northcote, Sir Edward Thornton, Sir John A. Macdonald, and Montague Bernard.

For the important part taken by Sir John A. Macdonald in the making of the treaty, see Joseph Pope, *Memoirs of the Right Honorable Sir John Alexander Macdonald, G.C.B., First Prime Minister of the Dominion of Canada,* and Lieutenant-Colonel J. P. Macpherson, *Life of Sir J. A. Macdonald.*

It is interesting to note that this statesman, like Mr. Webster and Lord Ashburton, was criticised by some of his people for making concessions. His remarkable defense of himself, which in its way is quite equal to the speech made by Mr. Webster many years before, will be found in II Macpherson, p. 110. This speech was made in the Canadian House of Commons May 3, 1872, and reported in its records.

[6] See Moore's *International Arbitrations,* I, 519–30; and, in that connection also, J. C. Bancroft Davis' *Mr. Fish and the Alabama Claims;* Frank Warren Hackett's *Reminiscences of the Geneva Tribunal;* Charles Francis Adams' *Lee at Appomattox, and other Papers.*

dence of both governments," had been asked by the British government to see what could be done informally towards settling the questions at issue. He exercised his good offices with tact and ability. The Treaty of Washington was the most important ever made in respect to the number and character of the arbitrations for which it provided. The chief of these, and the most important in the history of the world, was the Geneva Arbitration, which dealt with the Alabama claims, in which however Canada was not especially concerned, as the questions were between the United States and the home government of Great Britain. The award rendered gave the United States $15,500,000. The Treaty of Washington made an arrangement for the settlement by commission of claims for damages by citizens of the United States against Great Britain, and by British subjects against the United States, arising out of occurrences during the period of the civil war, entirely apart from the Alabama claims. These included claims connected with the St. Albans, Vt., raid, which was alleged to have been made by Confederate soldiers who came by way of Canada. There were a few other matters of damages that also related to Canada. In the Treaty of Washington provision was made for fixing the amount of compensation due from the United States to Canada for fishing privileges conceded by Great Britain under that treaty. The commission met at Halifax and awarded $5,500,000. For a time, the payment of this money, the amount of which was deemed to be excessive, provoked discussion in the United States; but a right feeling prevailed and the debt was honorably discharged.

The San Juan boundary, the question as to the location of the channel between Vancouver Island and the continent, was, under the Treaty of Washington, referred to Emperor William I of Germany, who decided in favor of the contention of the United States, which claimed the de Haro Channel.

The Bering Sea controversy arose in connection with the seizure of Canadian vessels in waters wrongly claimed as jurisdictional by the United States. The decision rendered by a commission at Paris, 1893, made an award favorable to Great Britain, which obtained for Canada by a commission, under a treaty made in 1896, about $473,000 damages. The first commission made protective regulation for the sealing industry to be observed in the future. The question had threatened serious trouble to the respon-

sible heads of government, but they kept it within their own confidence and did not permit it to embroil international relations.

One of the greatest questions of boundary, that between Alaska and British Columbia, failed of adjustment by diplomacy and was referred to a joint high commission of British and American citizens. Two of the British delegation were Canadians. By vote of four to two, the Canadian members dissenting, the English member joining with the three Americans, the case was decided at London in 1903 in favor of the contention of the United States. There was much dissatisfaction in Canada over the results, and Lord Alverstone, the English member of the tribunal, was severely criticised for sacrificing the interests of Canada to those of the Empire, but the award was accepted.

The most important arbitration of modern times, except that of the Alabama claims, was really between Canada and the United States, though nominally between this country and Great Britain. Newfoundland was also concerned in it. This was the fisheries question, which had been dragging on latterly under a *modus vivendi*, but formerly under other temporary arrangements, none of them very satisfactory, for seventy years. At times there was friction which was due to the enforcement by naval patrols of provincial laws against American fishermen who were in direct rivalry with Newfoundland and Canadian fishermen on what appeared to be their own ground. By the treaty made in 1909, which related back to the general arbitration treaty negotiated in 1908, the case, in the form of seven vital questions, was submitted to a tribunal at The Hague which rendered its decision in 1910. The American judge was George Gray, of Delaware. The British judge was a Canadian, Sir Charles Fitzpatrick, Chief Justice of Canada. The neutral judges were Professor Lammasch, of Austria; Dr. Savornin-Lohman, of the Netherlands, and Dr. Drago, of the Argentine Republic. Professor Lammasch served as president of the tribunal. No dispute that has ever been tried by the British and American governments, unless it was the claims litigation presided over by Joshua Bates in 1853, has ever been settled to better satisfaction for both parties than the fisheries case. It has proved to be powerful evidence among the English-speaking peoples, and before the world, of the efficiency of the Permanent Court of Arbitration at The Hague.

By a treaty made in 1909 for the United States and Canada,

an international joint boundary commission of six members was created to deal for the future with all disputes affecting Canadian and American rights, obligations, or interests on the frontier or elsewhere, either in the relations of these countries to each other as governments or between their respective peoples. The arrangement provides that the commission may act either as a board of inquiry to make a report, or as a tribunal; but in the latter case agreement to submit a dispute to the commission must have the consent of both the Canadian and American governments.[7] This commission has been described by Mr. Justice Riddell, of Toronto, as "a miniature Hague tribunal" between Canada and the United States. It makes all outside intervention unnecessary and the resort to force inconceivable.

Upon the question of reciprocity it is not the purpose of the present writer to enter other than to observe its relation to questions of war and peace. International friendship and reciprocal trade between these two countries are usually kept apart by intelligent peace workers. In 1854 a reciprocity treaty was made which, until its expiration by notification by the United States in 1866, gave general satisfaction to both countries. This was followed by a standing offer on the part of Canada for a similar treaty for many years afterwards, but to no avail, as the United States would not respond to it. When, however, reciprocity was proposed by the United States in 1911, it was declined on the part of Canada. A campaign in which reciprocity was the leading question was fought out in Canada in 1912, mainly on commercial issues, but effective appeal was also made to Canadian national sentiment on the ground that the arrangement might lead at some future time to the absorption of Canada by the United States, or at least it would place Canadian trade at the mercy of the United States. The refusal of Canada, though a disappointment in some quarters in this country, did not deeply, or indeed at all, affect the friendly feeling that had long prevailed between the Canadian and American peoples, but was regarded on this side of the line as perfectly legitimate, and the relations between the two countries are as cordial to-day as ever. "Believe me," said Premier Borden, speaking before the American Society of International Law in April of last year,

[7] See IV *Supplement American Journal of International Law*, 239. In case of equal division of the commission an umpire shall be chosen.

"I do not need to assure you of it—that the result in Canada on that occasion was not dictated in any respect, in any degree whatever, not in the slightest degree, by any feeling of unfriendliness toward the people of the United States; because we know that the relations between the two countries during the past twenty-five years have been most friendly and cordial in every way, and I do not doubt that in all the years to come that friendliness and cordiality will be maintained to the full."

There have been in the past some occasions when men like Goldwin Smith have proposed the political union of Canada and the United States and insisted that, although retarded for a time by secondary forces, union is destined inevitably to come; but there is no such tendency at present, rather all signs point to the contrary. The only union that is likely, as Mr. Justice Riddell has well said, is that of the heart. Each country prefers its own form of government—the one a democracy under a monarchy, the other a democracy in a republic; the "crowned and the uncrowned republics," Mr. Carnegie, a true lover of both, once happily characterized them. Talk of merging the interests of these two countries is seldom heard in the United States, and when made is usually regarded either as a joke or as the dream of a visionary. In Canada the proposal of a merger might be taken as an affront or, charitably viewed as the suggestion of a person uninformed as to Canadian sentiment.

At this point there lies a difficulty in the relations between the two peoples that historical students ought to remedy. It must be admitted that the American, as a rule, is absorbed in his own affairs, which, at the enormous rate at which his country is developing, give him much to think about at home. He is indifferent to Canada; he is ignorant of Canadian history and institutions. A student in a Canadian college learns considerable of the history and institutions of the United States. Historical courses on Canada are practically unheard of in American colleges. The average Canadian school boy knows the names of the states of the American Union. The average American school boy could probably not name the provinces of the Dominion of Canada. The average Canadian college student has an intelligent conception of the Constitution of the United States. The average American college student knows nothing of the British North America Act; he knows, of course, all the glorious traditions of the Pilgrim Fathers, but he has never

heard of the Fathers of the Confederation who laid the foundations of a new political union that is destined, in the minds not only of men like Sir Wilfrid Laurier, but of well-informed Americans, to become in the twentieth century one of the most prosperous and influential commonwealths of the world. The average Canadian knows American poets like Longfellow, philosophers like Emerson, and novelists of various types; but the average American has little idea of Canadian literature, whether in the form of poetry, philosophy, or novels. A large, though not increasing, number of Canadian students come to the United States to study in our colleges and universities, but comparatively few American students go to Canada for collegiate training. That there has been an interchange between school teachers and college professors by means of conventions and otherwise, and that there is a mutual debt in the establishment of representative educational institutions of the two countries, there can be no doubt. President Lowell of Harvard has proposed that this mutual debt be recognized at the time of the celebration of the Century of Peace. But this does not consciously affect the average man in America, or cause him to study Canadian history and institutions. If he is studious, he knows much more about France than about Canada, and still more about England. As to industry, excepting the knowledge that certain enterprising American farmers have of the Canadian Northwest, the American is poorly informed as to Canadian conditions, and has little conception, for example, of the wonderful railway systems stretching across the continent from St. John and Halifax to the Pacific and connecting the shipping of England and the Orient with continuous lines. All this deficiency on the part of the average American citizen and student will, it is hoped, be made up in the next few years.

There will be a strong effort made, in connection with the celebration of the Hundred Years of Peace, to bring about a better understanding in the United States of Canadian history and institutions. Preparations for the Centenary of Peace will inevitably correct many false impressions, and will give the people of both countries a larger point of view. It may cause history to be rewritten. Some passages in the text-books that retain the spirit of old-time prejudice that is now unworthy of us ought to be removed, particularly in the narratives of the revolution and the war of 1812. Although the peoples of our two countries have in these two

memorable conflicts been enemies, it must be remembered that it is our business to be friends to-day and in the future. Courage and devotion may well be commemorated in patriotic anniversaries. Then each nationality should stand by its own revered principles of government and put a halo of glory around the names of its own worthies, whether military or civic. But at the time of the anniversary of the Treaty of Ghent, let all animosities be forgotten and memorials of our unhappy conflicts give place to rejoicings over our long period of fraternity and peace.